

Serial No. 09/495,715

Docket No.: 1460.1003

REMARKS

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I. STATUS OF THE CLAIMS

Claims 8, 10 and 24-53 are currently pending.

II. OBJECTION TO THE DRAWINGS

The Examiner objects to the drawings. It appears that the Examiner is asserting that the drawings do not show configurations where an attenuator attenuates intensity of light output from a modulator as recited, for example, in claim 42.

It is respectfully submitted that such configurations are shown, for example, by the "dotted box" in FIG. 6. Page 16, lines 33-36, of the specification, indicates that this "dotted box" represents the attenuator being positioned at the output of the modulator. FIGS. 10 and 12 use a "dotted box" in a similar manner to show alternate positioning of an attenuator. See, for example, page 25, lines 7-15, of the specification, indicating that the "dotted box" in FIG. 10 represents alternate positioning of attenuator 31. Regarding FIG. 12, see page 29, lines 27-36, of the specification.

In view of the above, it is respectfully submitted that the objection is overcome.

III. DOUBLE PATENTING REJECTIONS

Claims 8, 10, 24-26, 29-30, 33-34, 37 and 48 are rejected under the "same invention" type double patenting in view of claims 6-10 of pending US application 10/464,650, while claims 49-53 are rejected under the judicially created doctrine of "obviousness-type" double patenting in view of claims 6-10 of pending US application 10/464,650.

However, it is respectfully noted that claims 6-10 in pending US application 10/464,650 were canceled. More specifically, claims 6-10 in pending US application 10/464,650 were canceled in Item 21 of the Application Transmittal Form filed with that application.

In view of the above, it is respectfully requested that the double patenting rejections be withdrawn.

IV. IDS

An IDS was filed on January 22, 2004, shortly after the mailing date of the outstanding Office Action. The PAIR System indicates that the IDS was received by the PTO.

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In view of the above, it is respectfully requested that the Examiner acknowledge the IDS.

V. CONCLUSION

In view of the above, it is respectfully submitted that the application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

If any further fees are required in connection with the filing of this response, please charge such fees to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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